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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,669	06/24/2003	John Baranowski	016354.0198	8433
24735	7590	09/15/2005	EXAMINER	
BAKER BOTTS LLP C/O INTELLECTUAL PROPERTY DEPARTMENT THE WARNER, SUITE 1300 1299 PENNSYLVANIA AVE, NW WASHINGTON, DC 20004-2400			SHARMA, RASHMI K	
			ART UNIT	PAPER NUMBER
			3651	

DATE MAILED: 09/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/601,669	Applicant(s) BARANOWSKI, JOHN	
	Examiner Rashmi K. Sharma	Art Unit 3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-81 is/are pending in the application.
- 4a) Of the above claim(s) 2,3 and 23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-22,24-26,30 and 35-81 is/are rejected.
- 7) ☒ Claim(s) 27-29 and 34 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/23/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claim 45 is objected to because of the following informalities: it appears claim 45 is dependent from claim "179". Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4-6, 8-22, 24-26, 30-33, 35-81 are rejected under 35 U.S.C. 102(b) as being anticipated by Mikami et al. (U.S. Patent number 4,398,612).

Mikami et al. discloses a method of dispensing and a dispenser comprising a feeder bowl (1) for receiving items to be dispensed, a first vibration device (2) for vibrating the feeder bowl (1), a plurality of dispensing paths (3) extending radially from the feeder bowl (1) directly receiving items from the feeder bowl (1), a rotation drive for rotating the dispensing paths (3) wherein the dispensing paths comprise at least one second vibration device (7) for vibrating the paths proportionately to a physical characteristic of each of the items singularly (read column 2 lines 22-42 and column 3 lines 21-40). The dispensing paths (3) comprise at least one channel (each path 3 configured with walls) for dispensing items singularly, wherein the second vibration

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device (7) vibrates each of the channels together or independently thereby vibrating each channel proportionately to a physical characteristic of the items, wherein the channels are positioned around a periphery of the feeder bowl (1) and wherein the feeder bowl (1) supplies the items to the channels, the channel having a smooth or textured item dispensing surface, wherein there are a plurality of second vibration devices (7) in two intersecting planes being transverse to each other, one of which is horizontal and the other of which is vertical, the physical characteristic consisting of a volume, density and weight of the items being dispensed, a dispensing head (14, 15) positioned at a distal end of each of the channels for receiving the singularly dispensed items wherein the dispensing heads (14) may direct predetermined quantities of items to a container or divert predetermined quantities of items away from a container, wherein the dispensing head (14, 15) comprises a scale, a sensing unit (8, 8') positioned at each dispensing head (14, 15), wherein the sensing unit (8, 8') measures at least one physical characteristic of each of the items and transmits the measurement to a control unit (see Figures 6-9) activating the dispensing heads (14, 15) to direct predetermined quantities of items to a container or divert predetermined quantities of items away from a container, wherein the physical characteristic measured by the sensing unit (8, 8') is selected from the group consisting of a volume, weight and density of the items and wherein the sensing unit (8, 8') is selected a photoelectric sensor.

Mikami et al. also disclose a plurality of lane dividers (see Figure 3) within the feeder bowl (1) having a receiving surface being planar, bulk delivery apparatus (1), bulk delivery drive (2) comprising a hopper vibration device (2) for vibrating the hopper

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and for controlling the rate of delivery of the items. It should be noted that feeder bowl (1) can be used for bulk item or single item delivery.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mikami et al. (U.S. Patent number 4,398,612) in view of Simionato (U.S. Patent number 5,613,590).

Mikami et al. fails to disclose channels having a width and depth increasing as the channels extend from the feeder bowl.

Simionato does disclose an increasing width and depth of the channels.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Mikami's channels as taught by Simionato in order to provide for a larger area in which to dispense the items in bulk towards the receptacle or in order to provide for larger singularly dispensed items.

Allowable Subject Matter

Claims 27-29 and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Dependent claims 27 and 34 recite the structural limitation of a feeder bowl comprising a first sloped member having a first sloped portion, a second sloped portion connected to the first sloped portion via a substantially cylindrical portion, wherein a first slope of the first sloped portion is less than a second slope of the second sloped portion and a refrigeration unit enclosing the dispenser, in combination with the rest of the recited structure, clearly defines over the prior art.

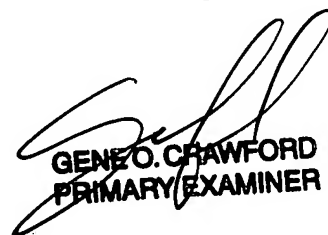
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rashmi K. Sharma whose telephone number is 571-272-6918. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on 571-272-6911. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



GENE O. CRAWFORD
PRIMARY EXAMINER